



Press and Information

Court of Justice of the European Union

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Judgment in Case C-338/13

Marjan Noorzia v Bundesministerin für Inneres

For third country nationals, the reunification of spouses may be subject to a condition that both spouses have reached the age of 21 by the date the application is lodged

The Directive on family reunification¹ lays down the conditions under which third country nationals who reside legally in the territory of a Member State may apply for, among others, their spouse² and their children who are minors to join them. In order to ensure better integration and to prevent forced marriages, the Directive permits Member States to fix a minimum age for the purposes of the reunification of spouses, which may not be higher than 21. That minimum age must be reached by both the sponsor and his or her spouse before the latter may join the sponsor. The Directive does not, however, define the date by reference to which the national authorities must determine whether the minimum age condition is satisfied.

In Austria, spouses and registered partners must have reached the age of 21 by the date of lodging an application to be considered eligible for family reunification. The Verwaltungsgerichtshof (Administrative Court, Austria) asks the Court of Justice whether the Directive precludes such a rule. That court was hearing a case brought by an Afghan national whose application to join her Afghan spouse residing in Austria had been refused on the ground that the latter had not yet reached the age of 21 when the application was lodged, albeit that he had reached that age when the refusal decision was taken.

In its judgment today, the Court holds that the Directive does not preclude a national law that requires spouses and registered partners to have reached the age of 21 by the date on which the application to be considered eligible for family reunification is lodged.

Such a rule does not exceed the margin of discretion afforded to Member States when they fix a minimum age. According to the Court, that age ultimately corresponds with the age from which Member States consider that a person has acquired sufficient maturity not only to refuse to enter into a forced marriage but also to choose voluntarily to move to another country with his or her spouse, in order to lead a family life with him or her there and to become integrated there. A rule such as that laid down in Austria does not prevent the exercise of family reunification nor render it excessively difficult.

Moreover, such a rule is consistent with the principles of equal treatment and legal certainty. It makes it possible to guarantee that all applicants who are in the same situation chronologically are treated identically, by ensuring that the success of the application depends principally on circumstances attributable to the applicant and not to the administration (such as the length of time taken considering the application, for example).

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of

¹ Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification (OJ 2003 L 251, p.12).

² According to the Directive, Member States may decide that registered partners must be treated in the same way as spouses as regards family reunification.

European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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